

Article 10.

Retail Activity.

**§ 18B-1000. Definitions concerning establishments.**

The following requirements and definitions shall apply to this Chapter:

- (1) Community theatre. – An establishment owned and operated by a bona fide nonprofit organization that is engaged solely in the business of sponsoring or presenting amateur or professional theatrical events to the public. A permit issued for a community theatre is valid only during regularly scheduled theatrical events sponsored by such nonprofit organization.
- (1a) Convention center. – An establishment that meets either of the following requirements:
  - a. A publicly owned or operated establishment that is engaged in the business of sponsoring or hosting conventions and similar large gatherings, including auditoriums, armories, civic centers, convention centers, and coliseums.
  - b. A privately owned facility located in a city that has a population of at least 200,000 but not more than 250,000 by the 2000 federal census and is located in a county that has previously authorized the issuance of mixed beverage permits by referendum. To qualify as a convention center under this subdivision, the facility shall meet each of the following requirements:
    - 1. The facility shall be certified by the appropriate local official as being consistent with the city's redevelopment plan for the area in which the facility is located.
    - 2. The facility shall contain at least 7,500 square feet of floor space that is available for public use and shall be used exclusively for banquets, receptions, meetings, and similar gatherings.
    - 3. The facility's annual gross receipts from the sale of alcoholic beverages shall be less than fifty percent (50%) of the gross receipts paid to all providers at permitted functions for food, nonalcoholic beverages, alcoholic beverages, service, and facility usage fees (excluding receipts or charges for entertainment and ancillary services not directly related to providing food and beverage service). The person to whom a permit has been issued for a privately owned facility shall be required to maintain copies of all contracts and invoices for items supplied by providers for a period of three years from the date of the event.

A permit issued for a convention center shall be valid only for those parts of the building used for conventions, banquets, receptions, and other events, and only during scheduled activities.
- (1b) Cooking school. – An establishment substantially engaged in the business of operating a school in which cooking techniques are taught for a fee.
- (2) Eating establishment. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten on the premises. Eating establishments shall include businesses that are referred to as restaurants,

cafeterias, or cafes, but that do not qualify under subdivision (6) [of this section]. Eating establishments shall also include lunchstands, grills, snack bars, fast-food businesses, and other establishments, such as drugstores, which have a lunch counter or other section where food is sold to be eaten on the premises.

- (3) Food business. – An establishment engaged in the business of regularly and customarily selling food, primarily to be eaten off the premises. Food businesses shall include grocery stores, convenience stores, and other establishments, such as variety stores or drugstores, where food is regularly sold, and shall also include establishments engaged primarily in selling unfortified or fortified wine or both, for consumption off the premises.
- (4) Hotel. – An establishment substantially engaged in the business of furnishing lodging. A hotel shall have a restaurant either on or closely associated with the premises. The restaurant and hotel need not be owned or operated by the same person.
- (5) Private club. – An establishment that is organized and operated solely for a social, recreational, patriotic, or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This provision does not, however, prohibit such an establishment from being open to the general public for raffles and bingo games as required by G.S. 14-309.11(a) and G.S. 14-309.13. Except for bona fide religious organizations, no organization that discriminates in the selection of its membership on the basis of religion shall be eligible to receive any permit issued under this Chapter.
- (5a) Residential private club. – A private club that is located in a privately owned, primarily residential and recreational development.
- (6) Restaurant. – An establishment substantially engaged in the business of preparing and serving meals. To qualify as a restaurant, an establishment's gross receipts from food and nonalcoholic beverages shall be not less than thirty percent (30%) of the total gross receipts from food, nonalcoholic beverages, and alcoholic beverages. A restaurant shall also have a kitchen and an inside dining area with seating for at least 36 people. If the restaurant is located on an 18-hole golf course, the premises shall include the parking lot and the playing area of the golf course, including the teeing areas, greens, fairways, roughs, hazards, and cart paths.
- (7) Retail business. – An establishment engaged in any retail business, regardless of whether food is sold on the premises.
- (7a) Sports and entertainment venue. – Stadiums, ballparks, and other similar facilities with a permanently constructed seating capacity of 3,000 or more which are not located on the campus of a school, college, or university.
- (8) Sports club. – An establishment that meets either of the following requirements:
  - a. The establishment is substantially engaged in the business of providing equine boarding, training, and coaching services, and the establishment offers on-site dining, lodging, and meeting facilities and hosts horse trials and other events sanctioned or endorsed by the United States Equestrian Federation, Inc.; or

- b. The establishment is substantially engaged in the business of providing an 18-hole golf course, two or more tennis courts, or both.

The sports club can either be open to the general public or to members and their guests. To qualify as a sports club, an establishment's gross receipts for club activities shall be greater than its gross receipts for alcoholic beverages. The premises of a sports club substantially engaged in the business of providing an 18-hole golf course shall include the parking lot and the playing area of the golf course, including the teeing areas, greens, fairways, roughs, hazards, and cart paths. This provision does not prohibit a sports club from operating a restaurant. Receipts for food shall be included in with the club activity fee.

- (9) Congressionally chartered veterans organizations. – An establishment that is organized as a federally chartered, nonprofit veterans organization, and is operated solely for patriotic or fraternal purposes.
- (10) Wine producer. – A farming establishment of at least five acres committed to the production of grapes, berries, or other fruits for the manufacture of unfortified wine. (1905, c. 498, ss. 6-8; Rev., ss. 3526, 3534; C.S., s. 3371; 1937, c. 49, ss. 12, 16, 22; c. 411; 1955, c. 999; 1967, c. 222, ss. 1, 8; c. 1256, s. 3; 1969, c. 1018; 1971, c. 872, s. 1; 1973, c. 1226; 1977, c. 176, s. 1; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 15; 1983, c. 583, s. 1; c. 896, s. 5; 1987, c. 307, s. 1; c. 391, s. 1; 1993, c. 415, ss. 14, 15; 1993 (Reg. Sess., 1994), c. 579, s. 1; 1995, c. 466, s. 8; c. 509, s. 15; 2001-262, s. 7; 2001-487, s. 49(d); 2002-188, s. 1; 2003-135, s. 1; 2009-539, s. 4; 2013-392, s. 2; 2018-100, s. 4(a).)

#### **§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

- (1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
  - a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Food businesses.
  - e. Retail businesses.
  - f. Private clubs.
  - g. Convention centers.
  - h. Community theatres.
  - i. Breweries as authorized by subdivisions (7) and (8) of G.S. 18B-1104(a).

- j. Sports and entertainment venues.
- (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:
- a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Food businesses.
  - e. Retail businesses.
  - f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.
- (3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine

shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

- a. Restaurants.
- b. Hotels.
- c. Eating establishments.
- d. Private clubs.
- e. Convention centers.
- f. Cooking schools.
- g. Community theatres.
- h. Wineries.
- i. Wine producers.
- j. Retail businesses.
- k. Sports and entertainment venues.

- (4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell

wine manufactured by the winery at one additional location in the county under the same conditions specified in G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

- (5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another on-premises fortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:
- a. Restaurants.
  - b. Hotels.
  - c. Private clubs.
  - d. Community theatres.
  - e. Wineries.
  - f. Convention centers.
- (6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit also authorizes the permittee to transfer fortified wine, not more than four times per calendar year, to another off-premises fortified wine permittee that is under common

ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises fortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred.

- (7) Brown-Bagging Permit. – A brown-bagging permit authorizes each individual patron of an establishment, with the permission of the permittee, to bring up to eight liters of fortified wine or spirituous liquor, or eight liters of the two combined, onto the premises and to consume those alcoholic beverages on the premises. The permit may be issued for any of the following:
  - a. Restaurants.
  - b. Hotels.
  - c. Private clubs.
  - d. Community theatres.
  - e. Congressionally chartered veterans organizations.
- (8) Special Occasion Permit. – A special occasion permit authorizes the host of a reception, party or other special occasion, with the permission of the permittee, to bring fortified wine and spirituous liquor onto the premises of the business and to serve the same to his guests. The permit may be issued for any of the following:
  - a. Restaurants.
  - b. Hotels.
  - c. Eating establishments.
  - d. Private clubs.
  - e. Convention centers.
- (9) Limited Special Occasion Permit. – A limited special occasion permit authorizes the permittee to bring fortified wine and spirituous liquor onto the premises of a business, with the permission of the owner of that property, and to serve those alcoholic beverages to the permittee's guests at a reception, party, or other special occasion being held there. The permit may be issued to any individual other than the owner or possessor of the premises. An applicant for a limited special occasion permit shall have the written permission of the owner or possessor of the property on which the special occasion is to be held.
- (10) Mixed Beverages Permit. – A mixed beverages permit authorizes the retail sale of mixed beverages for consumption on the premises. The permit also authorizes a mixed beverages permittee (i) to obtain a purchase-transportation permit under G.S. 18B-403 and 18B-404, (ii) to obtain an antique spirituous liquor permit under subdivision (20) of this section, and (iii) to use for culinary

purposes spirituous liquor lawfully purchased for use in mixed beverages. The permit may be issued for any of the following:

- a. Restaurants.
- b. Hotels.
- c. Private clubs.
- d. Convention centers.
- e. Community theatres.
- f. Nonprofit organizations.
- g. Political organizations.
- h. Sports and entertainment venues.

- (11) Culinary Permit. – A culinary permit authorizes a permittee to possess up to 12 liters of either fortified wine or spirituous liquor, or 12 liters of the two combined, in the kitchen of a business and to use those alcoholic beverages for culinary purposes. The permit may be issued for either of the following:

- a. Restaurants;
- b. Hotels;
- c. Cooking schools.

A culinary permit may also be issued to a catering service to allow the possession of the amount of fortified wine and spirituous liquor stated above at the business location of that service and at the cooking site. The permit shall also authorize the caterer to transport those alcoholic beverages to and from the business location and the cooking site, and use them in cooking.

- (12) Mixed Beverages Catering Permit. – A mixed beverages catering permit authorizes a hotel or a restaurant that has a mixed beverages permit to bring spirituous liquor onto the premises where the hotel or restaurant is catering food for an event and to serve the liquor to guests at the event.

- (13) Guest Room Cabinet Permit. – A guest room cabinet permit authorizes a guest room cabinet permittee to sell to its room guests, from securely locked cabinets, malt beverages, unfortified wine, fortified wine, and spirituous liquor. A permittee shall designate and maintain at least ten percent (10%) of the permittee's guest rooms as rooms that do not have a guest room cabinet. A permittee may dispense alcoholic beverages from a guest room cabinet only in accordance with written policies and procedures filed with and approved by the Commission. A permittee shall provide a reasonable number of vending machines, coolers, or similar machines on premises for the sale of soft drinks to hotel guests.

A guest room cabinet permit may be issued to any of the following:

- a. A hotel (i) holding a mixed beverages permit and (ii) located in a county subject to G.S. 18B-600(f).
- b. A hotel (i) holding a mixed beverages permit and (ii) located in a county that has a population in excess of 150,000 by the last federal census.
- c. A private club (i) holding a mixed beverages permit, (ii) having management contracts for the rental of living units, and (iii) located in a county defined in G.S. 18B-101(13a)b.2.
- d. An 18-hole golf course (i) holding a mixed beverages permit or located in a county where ABC stores have heretofore been established but in



which the sale of mixed beverages has not been approved, (ii) having management contracts for the rental of living units, and (iii) located in a county that has a population in excess of 20,000 people by the last federal census.

- (14) Brew on Premises Permit. – A permit may be issued to a business, located in a jurisdiction where the sale of malt beverages is allowed, where individual customers who are 21 years old or older may purchase ingredients and rent the equipment, time, and space to brew malt beverages for personal use in amounts set forth in 27 C.F.R. § 25.205. The customer must do all of the following:

- a. Select a recipe and kettle.
- b. Weigh out the proper ingredients and add them to the kettle.
- c. Transfer the wort to the fermenter.
- d. Add the yeast.
- e. Place the ingredients in a fermentation room.
- f. Filter, carbonate, and bottle the malt beverage.

A permittee may transfer the ingredients from the fermentation room to the cold room and may assist the customer in all the steps involved in brewing a malt beverage except adding the yeast. A malt beverage produced under this subdivision may not contain more than six percent (6%) alcohol by volume.

- (15) Wine-Tasting Permit. – A wine-tasting permit authorizes wine tastings on a premises holding a retail permit, by the retail permit holder or his employee. A wine tasting consists of the offering of a sample of one or more unfortified wine products, in amounts of no more than one ounce for each sample, without charge, to customers of the business. Any person pouring wine at a wine tasting shall be at least 21 years of age.

- a. Representatives of the winery, which produced the wine, the wine producer, a wholesaler, or a wholesaler's employee may assist with the tasting. Assisting with a wine tasting includes:
  1. Pouring samples for customers.
  2. Checking the identification of patrons being served at the wine tasting.
- b. When a representative of the winery that produced the wine, the wine producer, a wine wholesaler, or a wine wholesaler's employee assists in a wine tasting conducted by a retail permit holder:
  1. The retail permit holder shall designate an employee to actively supervise the wine tasting.
  2. A retail permit holder's employee shall not supervise more than three wine-tasting areas.
  3. No more than six wines may be tasted at any one tasting area.
  4. The wine tasting shall not last longer than four hours from the time designated as the starting time by the retail permit holder.
- c. The retail permit holder shall be solely liable for any violations of this Chapter occurring in connection with the wine tasting. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of wine, and that the tastings are not used by industry members for unlawful inducements

to retail permit holders. Except for purposes of this subsection, the holder of a wine-tasting permit shall not be construed to hold a permit for the on-premises sale or consumption of alcoholic beverages. Any food business is eligible for a wine-tasting permit.

- (16) **Wine Shop Permit.** – A wine shop permit authorizes (i) the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages or unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas in a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) wine tastings on the premises conducted and supervised by the permittee in accordance with subdivision (15) of this section. It also authorizes the holder of the permit to ship malt beverages, unfortified wine, and fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses whose primary purpose is selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tastings, classes, and seminars about the selection, serving, and storing of wine. The holder of the permit is authorized to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes.
- (17) **Winemaking on Premises Permit.** – A permit may be issued to a business, located in a jurisdiction where the sale of unfortified wine is allowed, where individual customers who are 21 years old or older may purchase ingredients and rent the equipment, time, and space to make unfortified wine for personal use in amounts set forth in 27 C.F.R. § 24.75. Except for wine produced for testing equipment or recipes and samples pursuant to this subdivision, the permit holder shall not engage in the actual production or manufacture of wine. Samples may be consumed on the premises only by a person who has a nonrefundable contract to ferment at the premises, and the samples may not exceed one ounce per sample. All wine produced at a winemaking on premises facility shall be removed from the premises by the customer and may only be used for home consumption and the personal use of the customer.
- (18) **Malt Beverage Tasting Permit.** – A malt beverage tasting permit authorizes malt beverage tastings on a premises holding a retail permit by the retail permit holder or his employee. A representative of the brewery whose beverages are being featured at the tasting shall be present at the tasting unless the wholesaler or a wholesaler's employee determines that no representative of the brewery needs to be present. A malt beverage tasting consists of the offering of a sample of one or more malt beverage products, in amounts of no more than two ounces for each sample, without charge, to customers of the business. Any persons

pouring malt beverage at a malt beverage tasting shall be at least 21 years of age.

- a. Representatives of the brewery which produced the malt beverage, a wholesaler, or a wholesaler's employee may assist with the tasting. Assisting with a malt beverage tasting includes:
  1. Pouring samples for customers.
  2. Checking the identification of patrons being served at the malt beverage tasting.
- b. When a representative of the brewery that produced the malt beverage, a malt beverage wholesaler, or a malt beverage wholesaler's employee assists in a malt beverage tasting conducted by a retail permit holder:
  1. The retail permit holder shall designate an employee to actively supervise the malt beverage tasting.
  2. A retail permit holder's employee shall not supervise more than three malt beverage tasting areas.
  3. No more than four malt beverages may be tasted at any one tasting area.
  4. The malt beverage tasting shall not last longer than four hours from the time designated as the starting time by the retail permit holder.
- c. The retail permit holder shall be solely liable for any violations of this Chapter occurring in connection with the malt beverage tasting. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of malt beverages, and that the tastings are not used by industry members for unlawful inducements to retail permit holders. Except for purposes of this subdivision, the holder of a malt beverage tasting permit shall not be construed to hold a permit for the on-premises sale or consumption of alcoholic beverages. Any food business is eligible for a malt beverage tasting permit.

(19) Spirituous liquor tasting permit. – The holder of any distillery permit authorized by G.S. 18B-1105 may conduct a consumer tasting event on the premises of the distillery subject to the following conditions:

- a. Any person pouring spirituous liquor at a tasting shall be an employee of the distillery and at least 21 years of age.
- b. The person pouring the spirituous liquor shall be responsible for checking the identification of patrons being served at the tasting.
- c. Each consumer is limited to tasting samples of 0.25 ounce of each spirituous liquor which total no more than 1.5 ounces of spirituous liquor in any calendar day.
- d. The consumer shall not be charged for any spirituous liquor tasting sample.
- e. The spirituous liquor used in the consumer tasting event shall be distilled at the distillery where the event is being held by the permit holder conducting the event.

- f. A consumer tasting event shall not be allowed when the sale of spirituous liquor is otherwise prohibited.
- g. Tasting samples are not to be offered to, or allowed to be consumed by, any person under the legal age for consuming spirituous liquor.

The distillery permit holder shall be solely liable for any violations of this Chapter occurring in connection with the tasting. The Commission shall adopt rules to assure that the tastings are limited to samplings and not a subterfuge for the unlawful sale or distribution of spirituous liquor and that the tastings are not used by industry members for unlawful inducements to retail permit holders.

- (20) Antique spirituous liquor permit. – A permit under this subdivision may be issued to a holder of a mixed beverages permit issued under subdivision (10) of this section. Notwithstanding any law to the contrary, the permit holder may sell at retail antique spirituous liquor for use in mixed beverages for consumption on premises. The acquisition of antique spirituous liquor on or after September 1, 2015, shall be in accordance with the process established by rule of the Commission for special orders of spirituous liquor that is not on the list approved by the Commission. (1945, c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, s. 1; 1957, cc. 1048, 1448; 1963, c. 426, ss. 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 476, s. 128; 1975, c. 586, s. 1; c. 654, ss. 1, 2; c. 722, s. 1; 1977, c. 70, s. 19; c. 182, s. 1; c. 669, ss. 1, 2; c. 676, ss. 1, 2; c. 911; 1979, c. 348, ss. 2, 3; c. 683, ss. 5, 6, 11, 12; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, ss. 16, 17, 22; 1983, c. 457, s. 3; c. 583, ss. 2-5; 1985, c. 89, ss. 1-3; c. 596, s. 1; 1987, c. 391, s. 2; c. 434, s. 1; 1989, c. 800, ss. 11, 12; 1991, c. 459, ss. 5, 6; c. 565, ss. 1, 7; c. 669, s. 1; 1991 (Reg. Sess., 1992), c. 920, s. 7; 1993, c. 508, s. 5; 1995, c. 466, s. 10; c. 509, ss. 16-18; 1997-443, s. 16.28; 1997-467, s. 3; 2001-262, s. 1; 2001-487, s. 49(a); 2003-402, s. 5; 2005-350, ss. 1, 2(a); 2006-222, s. 2.1; 2006-227, ss. 1, 9; 2006-264, s. 35.3; 2009-377, s. 2; 2009-539, s. 3; 2010-31, s. 14.12(c); 2011-73, ss. 3, 4; 2011-107, s. 1; 2011-333, ss. 4, 5; 2013-76, s. 1; 2014-115, s. 28.2(a); 2014-120, s. 17(c); 2015-98, ss. 1(b), 1(d), 5(a), 8; 2017-87, ss. 5(a), 7, 16(d); 2018-100, s. 4(b).)

#### **§ 18B-1001.1. Authorization of wine shipper permit.**

(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. The applicant shall not be required to pay an application fee for the wine shipper permit. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine.

(b) A wine shipper permittee that ships to addresses in the State more than 1,000 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell the products of the

wine shipper permittee under Article 12 of this Chapter if the wine shipper permittee is contacted by a wholesaler that wishes to sell the products of the wine shipper permittee. This provision shall not be construed to require the wine shipper permittee to appoint the wholesaler that originally contacted the wine shipper permittee. Wine purchased by a resident of the State at the premises of the wine shipper permittee and shipped to an address in the State under G.S. 18B-109(d) shall not be included in calculating the total of 1,000 cases per year.

(c) A wine shipper permittee may contract with the holder of a wine shipper packager permit for the packaging and shipment of wine pursuant to this section. The direct shipment of wine by wine shipper or wine shipper packager permittees pursuant to this section shall be made by approved common carrier only. Each common carrier shall apply to the Commission for approval to provide common carriage of wines shipped by holders of permits issued pursuant to this section.

Each common carrier making deliveries pursuant to this section shall:

- (1) Require the recipient, upon delivery, to demonstrate that the recipient is at least 21 years of age by providing a form of identification specified in G.S. 18B-302(d)(1).
- (2) Require the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the Commission.
- (3) Refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification as required by subdivision (1) of this subsection.
- (4) Submit any other information that the Commission shall require.

All wine shipper and wine shipper packager permittees shipping wines pursuant to this section shall affix a notice in 26-point type or larger to the outside of each package of wine shipped within or to the State in a conspicuous location stating: "CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY". Any delivery of wines to a person under 21 years of age by a common carrier shall constitute a violation of G.S. 18B-302(a)(1) by the common carrier. The common carrier and the wine shipper or wine shipper packager permittee shall be liable only for their independent acts.

(d) A wine shipper permittee shall be subject to jurisdiction of the North Carolina courts by virtue of applying for a wine shipper permit and shall comply with any audit or other compliance requirements of the Commission and the Department of Revenue. (2003-402, s. 2; 2004-203, s. 26(a); 2005-380, s. 2; 2006-227, s. 4.)

#### **§ 18B-1001.2. Additional wine shipping requirements.**

(a) A wine shipper permittee shall:

- (1) Compile and submit to the Commission quarterly a summary indicating all wine products shipped, including brand and price of each product, date of each shipment, quantity of each shipment, and amount of excise and sales tax remitted to the Department of Revenue. The report shall include all wine products shipped on the permittee's behalf under contract with a wine shipper packager.
- (2) Register with the Department of Revenue as a wine shipper permittee and provide any additional information required by the Department.

(b) The Commission may adopt rules to carry out the provisions of this section and other related provisions governing the direct shipping of wine. (2003-402, s. 3; 2006-227, s. 5.)

**§ 18B-1001.3. Authorization of wine shipper packager permit.**

The holder of a wine shipper packager permit may provide services for the warehousing, packaging, and shipment of wine on behalf of a winery holding a wine shipper permit. A wine shipper packager permit authorizes the holder to receive, in closed containers, wine produced by and belonging to a wine shipper permittee and to place the unopened wine in containers or packaging materials as a service to the wine shipper permittee in connection with the marketing and sale of its wine products. A wine shipper packager may package and return wine products to the wine shipper permittee or, on behalf of the wine shipper permittee, may package and ship wine products in closed containers to individual purchasers inside and outside this State in accordance with the provisions of G.S. 18B-1001.1. The permit may be issued to a USDA-approved company specializing in warehousing and contract packaging. (2006-227, s. 6.)

**§ 18B-1002. Special one-time permits.**

(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

- (1) A permit may be issued to a person who acquires ownership or possession of alcoholic beverages through bankruptcy, inheritance, foreclosure, judicial sale, or other special occurrence, and who does not already have a permit authorizing the sale of that kind of alcoholic beverage. The permit may authorize the sale or other disposition of the alcoholic beverages in a manner prescribed by the Commission.
- (2) A permit may be issued to a nonprofit organization to allow the retail sale of malt beverages, unfortified wine, fortified wine, or mixed beverages, or to allow brown-bagging, at a single fund-raising event of that organization. A permit for this purpose shall not be issued for the sale of any kind of alcoholic beverage in a jurisdiction where the sale of that alcoholic beverage is not lawful.
- (3) A permit may be issued to a permittee who is going out of business to authorize the sale or other disposition of his alcoholic beverages stock in a manner that would not otherwise be authorized under his permit.
- (4) A permit may be issued to a collector of wine, decorative decanters of spirituous liquor, or antique spirituous liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission.
- (5) A permit may be issued to a unit of local government, or to a nonprofit organization or a political organization to serve wine, malt beverages, and spirituous liquor at a ticketed event held to allow the unit of local government or organization to raise funds. For purposes of this subdivision "nonprofit organization" means an organization that is exempt from taxation under Section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code or is exempt under similar provisions of the General Statutes as a bona fide nonprofit charitable, civic, religious, fraternal, patriotic, or veterans' organization or as a nonprofit volunteer fire department, or as a nonprofit volunteer rescue squad or a bona fide homeowners' or property

owners' association. For purposes of this subdivision "political organization" means an organization covered by the provisions of G.S. 163-96(a)(1) or (2) or a campaign organization established by or for a person who is a candidate who has filed a notice of candidacy, paid the filing fees or filed the required petition, and been certified as a candidate. The issuance of this permit shall also allow the issuance of a purchase-transportation permit under G.S. 18B-403 and 18B-404 and the use for culinary purposes of spirituous liquor lawfully purchased for use in mixed beverages. The issuance of this permit shall also allow a nonprofit organization to offer alcoholic beverages in the manufacturer's original closed container as a prize in a raffle or sell alcoholic beverages in the manufacturer's original closed container at auction at the ticketed event to allow the nonprofit organization to raise funds.

(b) Intent. – Permits under this section are to be issued only for the limited circumstances listed in subsection (a) of this section and not as substitutes for other permits required by this Chapter.

(c) Conditions of Permit. – A permit issued under this section shall be valid only for the single transaction or the kind of activity specified in the permit and shall be subject to any conditions the Commission may impose as to the time, place and manner of the authorized activity.

(d) Administrative Procedure. – Denial or revocation of a permit under this section shall not entitle the applicant or permittee to a hearing under Chapter 150B. (1977, c. 854, s. 1; 1981, c. 412, s. 2; 1987, c. 434, s. 2; c. 827, s. 1; 1989, c. 130; c. 800, ss. 13, 14; 2001-262, s. 9; 2008-159, s. 1; 2017-6, s. 3; 2017-87, s. 3(b); 2018-100, s. 5(e).)

#### **§ 18B-1002.1. Special auction permit.**

(a) Permit Authorized. – A permit may be issued upon application to an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of the General Statutes to allow the licensed auction firm or auctioneer to sell at auction items described in G.S. 18B-1002(a)(4). An auction held under this section may receive competing bids that are in person or by telephone, fax, or online.

(b) Conditions of Permit. – A permit issued under this section is valid only for the auction specified in the permit. Any sales under this permit are subject to the purchase restrictions in G.S. 18B-303.

(c) Administrative Procedure. – Denial or revocation of a permit under this section does not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes. (2017-87, s. 3(c).)

#### **§ 18B-1003. Responsibilities of permittee.**

(a) Premises. – For purposes of this Chapter, a permittee shall be responsible for the entire premises for which the permit is issued. The permittee shall keep the premises clean, well-lighted and orderly.

(b) Employees. – For purposes of this Chapter, a permittee shall be responsible for the actions of all employees of the business for which the permit is issued. Each holder of a salesman's permit shall be responsible for all sales and deliveries made by his helpers.

(c) Certain Employees Prohibited. – A permittee shall not knowingly employ in the sale or distribution of alcoholic beverages any person who has been:

- (1) Convicted of a felony within three years;
- (2) Convicted of a felony more than three years previously and has not had his citizenship restored;
- (3) Convicted of an alcoholic beverage offense within two years; or
- (4) Convicted of a misdemeanor controlled substances offense within two years; [or]
- (5) A past permit holder under Chapter 18B of the General Statutes whose permit had been revoked within the last 18 months and who had been the permit holder at the location where the person would be employed.

For purposes of this subsection, "conviction" has the same meaning as in G.S. 18B-900(b). To avoid undue hardship, the Commission may, in its discretion, exempt persons on a case-by-case basis from this subsection.

(c1) Posting Human Trafficking Hotline. – All permittees shall prominently display on the premises in a place that is clearly conspicuous and visible to employees a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information.

(d) Financial Responsibility. – A permittee shall pay all judgments rendered against him under the provisions of Article 1A of this Chapter. When the Commission is informed, under the provisions of G.S. 18B-127 that there is an outstanding unsatisfied judgment against a permittee, the Commission shall suspend all of the permittee's permits. Notice and hearing are not required for a suspension under this subsection, and the suspension shall become effective immediately upon the Commission's receipt of the report. The suspension shall remain in effect until the permittee demonstrates that he has satisfied the judgment by payment in full. Nothing in this section relieves the permittee of the obligation to pay any applicable fees as a precondition of the reinstatement of his permit. (1981, c. 412, s. 2; 1983, c. 435, s. 40; 2006-253, s. 28; 2017-57, s. 17.4(b); 2017-197, s. 5.8; 2018-97, s. 5.4.)

#### **§ 18B-1004. Hours for sale and consumption.**

(a) Hours. – Except as otherwise provided in this section, it shall be unlawful to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M., in any place that has been issued a permit under G.S. 18B-1001.

(b) Repealed by Session Laws 1991, c. 689, s. 310, effective August 1, 1991.

(c) Sunday Hours. – Except as authorized pursuant to G.S. 18B-112(b1), 153A-145.7, or 160A-205.3, it shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day.

(d) Local Option. – A city may adopt an ordinance prohibiting in the city the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. A county may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. Neither a city nor a county, however, may prohibit those sales in establishments having brown-bagging or mixed beverages permits.

(e) This section does not prohibit at any time the wholesale delivery and sale of unfortified wine, fortified wine, and malt beverages to retailers issued permits pursuant to G.S. 18B-1001 or



G.S. 18B-1002(a)(2) or (5). (1943, c. 339, ss. 1-3; 1949, c. 974, s. 12; 1951, c. 997, s. 1; 1953, c. 675, s. 4; 1963, c. 426, ss. 7-9, 12; 1969, c. 1131; 1971, c. 872, s. 1; 1973, cc. 56, 153; 1979, c. 286, s. 3; 1981, c. 412, s. 2; 1987, c. 35; c. 308; 1991, c. 689, s. 310; 1993, c. 243, ss. 1, 2; c. 415, s. 16; 2017-87, s. 4(a).)

**§ 18B-1005. Conduct on licensed premises.**

(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

- (1) Any violation of this Chapter;
- (2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or
- (3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.
- (4) through (6) Repealed by Session Laws 2003-382, s. 1, effective August 1, 2003.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued. (1943, c. 400, s. 6; 1945, c. 708, s. 6; c. 903, s. 1; 1947, c. 1098, ss. 2, 3; 1949, c. 974, ss. 13, 15; c. 1251, s. 3; 1957, c. 1048; 1959, c. 745, s. 2; 1963, c. 426, ss. 6, 10, 12; c. 460, s. 1; 1971, c. 872, s. 1; 1973, c. 30; c. 1295; c. 1452, s. 4; 1977, c. 176, ss. 1-3; 1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, ss. 18, 19; 2003-382, s. 1.)

**§ 18B-1005.1. Sexually explicit conduct on licensed premises.**

(a) It shall be unlawful for a permittee or his agent or employee to knowingly allow or engage in any of the following kinds of conduct on his licensed premises:

- (1) Any conduct or entertainment by any person whose genitals are exposed or who is wearing transparent clothing that reveals the genitals;
- (2) Any conduct or entertainment that includes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any act that includes or simulates the penetration, however slight, by any object into the genital or anal opening of a person's body; or
- (3) Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

(c) Exception. – This section does not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value. (2003-382, s. 2.)

**§ 18B-1006. Miscellaneous provisions on permits.**

(a) School and College Campuses. – No permit for the sale of alcoholic beverages shall be issued to a business on the campus or property of a public school, college, or university. This subsection shall not apply to the following:

- (1) A regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes, unless the permit is for a public school or public college or university function.
- (2) Property owned by a local board of education and leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city governing board, a county board of commissioners, or a local school board.
- (3) A hotel.
- (4) A nonprofit alumni organization.
- (5) Restaurants, eating establishments, food businesses, or retail businesses on the property defined by G.S. 116-198.33(4).
- (6) Any golf courses owned or leased by the public college or university and open to the public for use.
- (7) The sale of malt beverages, unfortified wine, or fortified wine at the following:
  - a. Performing arts centers located on property owned or leased by the public college or university.
  - b. Any stadiums that support a NASCAR-sanctioned one-fourth mile asphalt flat oval short track, that are owned or leased by the public college or university, and that only sell malt beverages, unfortified wine, or fortified wine at events that are not sponsored or funded by the public college or university.
- (8) Special one-time permits as described in G.S. 18B-1002(a)(5) for the Loudermilk Center for Excellence facility at the University of North Carolina at Chapel Hill.

(b) Lockers at Clubs. – A private club or congressionally-chartered veterans organization which has been issued a brown-bagging permit may, but is not required to, provide lockers for its members to store their alcoholic beverages. If lockers are provided, however, they shall not be shared but shall be for individual members. Each locker and each bottle of alcoholic beverages on the premises shall be labelled with the name of the member to whom it belongs. No more than eight liters each of malt beverages or unfortified wine may be stored by a member at one time. No more than eight liters of either fortified wine or spirituous liquor, or eight liters of the two combined, may be stored by a member at one time.

(c) Wine Sales. – Holders of retail or wholesale permits for the sale of unfortified or fortified wine may buy and sell only wines on the Commission's approved list. The Commission may authorize the importation and purchase of wines not on the approved list by permittees and others. An authorization shall state the kind and amount of wine that may be imported and purchased and the time within which the transaction shall be completed.

(d) Unlawful Possession or Consumption. – It shall be unlawful for a permittee to possess or consume, or allow any other person to possess or consume, on the licensed premises, any fortified wine or spirituous liquor, the possession or consumption of which is not authorized either by the permits issued to him for the premises or by any other provision of the ABC law.

(e) Facsimile Permit. – It shall be unlawful for any person to produce or possess any false or facsimile permit, or for a permittee to display any false or facsimile permit on his licensed premises.

(f) Failure to Surrender Permit. – It shall be unlawful for any person to refuse to surrender any permit to the Commission upon lawful demand of the Commission or its agents.

(g) Restrictions on Sales at Cooking Schools. – Retail sales of food or alcoholic beverages to be consumed on the premises of a cooking school are restricted to bona fide enrolled students of that school. Violation of this subsection is a ground for administrative action under G.S. 18B-104.

(h) Purchase Restrictions. – A retail permittee may purchase malt beverages, unfortified wine, or fortified wine only from a wholesaler who maintains a place of business in this State and has the proper permit.

(i) Tour Boats. – The Commission may issue permits to boats that conduct regularly scheduled tours upon the rivers or waterways of this State under the following conditions:

- (1) A boat shall serve meals on each tour and shall have a dining area with seating for at least 36 people;
- (2) A boat's gross receipts from food and non-alcoholic beverages shall be greater than its gross receipts from alcoholic beverages;
- (3) A boat may hold the permits listed in G.S. 18B-1001(1), (3), (5), (7), and (10), but no off-premises sales may be made pursuant to those permits;
- (4) A boat shall have a home port in an area where issuance of any of the permits listed in subdivision (3) is legal, and all passengers shall enter the boat at the home port or at other ports listed on a preannounced itinerary. The boat's permits are valid during tours that leave and return to the boat's home port, and apply regardless of whether the boat crosses into an area where sales are not legal, if the boat docks only at a port listed on the preannounced itinerary, except in an emergency; and
- (5) A boat conducting tours along the intracoastal waterway and navigable waterways that enters into the intracoastal waterway, pursuant to a preannounced itinerary that includes visits to two or more cities, may serve alcoholic beverages pursuant to ABC permits issued according to the jurisdiction of its home port in the following manner:
  - a. While on tour, alcoholic beverages may be served to passengers;
  - b. While docked in any other port alcoholic beverages may be served only to tour passengers;
  - c. During special city-sponsored events and festivals, in which case the boat may open its galley and bars at dockside to the general public and sell those alcoholic beverages that are lawful in the jurisdiction in which it is docked. Any sales in this manner shall be in accordance with the requirements of any ordinances of the jurisdiction in which the boat is docked.
- (6) Liquor purchased for resale in mixed beverages may be purchased only from the local board for the jurisdiction of the boat's home port.

(j) Recreation Districts. – Notwithstanding the provisions of Article 6 of this Chapter, the Commission may issue permits for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages to qualified businesses in a recreation district.

A "recreation district" is an area that meets any of the following requirements:

- (1) An area that is located in a county that has not approved the issuance of permits, has at least two cities that have approved the sale of malt beverages, wine, and the operation of an ABC store, and contains a facility of at least 450 acres where five or more public auto racing events are held each year.

- (2) An area that is located in a county that borders a county which has held elections pursuant to G.S. 18B-600(f) and borders on another state and which (i) contains a facility of at least 225 acres where four or more public auto racing events are held each year or (ii) contains a facility of at least 140 acres where 80 or more motor sports events are held each year.
- (3) A recreation district includes the area within a half-mile radius of a racing facility that meets the requirements of subdivision (1) or (2) of this subsection.
- (4) Repealed by Session Laws 2004-203, s. 27, effective August 17, 2004.

(k) Residential Private Club and Sports Club Permits. – The Commission may issue the permits listed in G.S. 18B-1001, without approval at an election, to a residential private club or a sports club, except if the sale of mixed beverages is not lawful within a jurisdiction and that locality has voted against the sale of mixed beverages in a referendum conducted on or after September 1, 2001. If the issuance of permits is prohibited by the exception in the previous sentence, the Commission may renew existing permits and may continue to issue permits for a business location that had previously held permits under this subsection. No permit may be issued to any residential private club or sports club that practices discrimination on the basis of race, gender or ethnicity.

The mixed beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the county.

(l) Repealed by Session Laws 2004-203, s. 65, effective August 17, 2004.

(m) Interstate Interchange Economic Development Zones. –

- (1) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that:
  - a. Has approved the sale of malt beverages, unfortified wine, and fortified wine, but not mixed beverages;
  - b. Operates ABC stores;
  - c. Borders on another state; and
  - d. Lies north and east of the Roanoke River.
- (2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to G.S. 18B-1006(k). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet all of the following requirements:
  - a. Located within one mile of any interstate highway interchange in that county;
  - b. Located within one mile of an establishment issued a permit under G.S. 18B-1006(k); and
  - c. Is, or is located within one-quarter mile of, a hotel with 70 or more rooms.
- (3) Repealed by Session Laws 2004-203, s. 28, effective August 17, 2004.

(n) National Historic Landmark District. – The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in

G.S. 18B-1000(4) and (6) located within a National Historical Landmark as defined in 16 U.S.C. § 470a(a)(1)(B) located in a county that meets all of the following requirements:

- (1) Has approved the sale of malt beverages and unfortified wine but not mixed beverages.
- (2) Has at least one city that has approved the operation of an ABC store and the sale of mixed beverages.
- (3) Has at least 150,000 population based on the last federal census.

(n1) State Boundary Certification. – The Commission may issue permits listed in G.S. 18B-1001(2) and (4), without approval at an election, to qualified establishments defined in G.S. 18B-1000(7) that meet all of the following requirements:

- (1) The establishment is located in a county that borders on another state.
- (2) The location of the establishment was reclassified from out-of-state to North Carolina as a result of a State boundary certification.
- (3) The establishment was licensed or permitted by the previous state of record to sell malt beverages and unfortified wine.

(o) Expired.

(p) The Commission shall issue a special occasion permit under G.S. 18B-1001(8) to a mixed beverage permittee in a sports facility occupied by a major league professional sports team with suites available for sale or lease to patrons of the facility to authorize patrons to make available alcoholic beverages in those suites as if the patron were a host of a reception, party or other special occasion. If the patron occupying the suite so desires, alcoholic beverages by self-service may be made available to any person at least 21 years of age possessing a valid ticket to the event authorizing that person to occupy the suite. At no event may the patron make available a quantity of alcoholic beverages in excess of the amount a person is allowed to buy under G.S. 18B-303(a). A mixed beverage permittee who holds a permit shall provide mixed beverage tax paid spirituous liquor for resale by the container in approved sizes of no larger than 750 milliliters to the host or patron of the suite. This subsection does not authorize any person possessing a valid ticket to an event at the facility to bring alcoholic beverages onto the premises and consume those alcoholic beverages on the premises, or to remove those beverages from the suite.

(q) The hours for sales and consumption of alcoholic beverages on the premises of a permittee who meets the requirements of G.S. 18B-1009 shall be one hour earlier than permitted by G.S. 18B-1004(c). (1981, c. 412, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 23; 1985, c. 114, s. 2; c. 301; 1987, c. 515; c. 760; 1989, c. 360; c. 770, s. 49; c. 800, s. 18; 1991, c. 340, s. 1; c. 459, s. 7; 1991 (Reg. Sess., 1992), c. 920, s. 12; 1993, c. 415, ss. 17-19; c. 508, s. 6; 1995, c. 224, s. 1; c. 372, s. 2; c. 458, s. 8; c. 466, ss. 11-12; 1997-182, s. 3; 1997-395, s. 1; 1997-443, s. 16.27(a); 1999-462, ss. 2, 10, 12, 14; 2001-130, ss. 1, 1.4; 2004-199, s. 10; 2004-203, ss. 27, 28, 65; 2005-327, ss. 1, 2, 4; 2006-227, s. 7; 2006-264, s. 100; 2007-323, s. 6.25; 2013-394, s. 5(b); 2013-410, s. 27.9; 2014-120, s. 14; 2016-23, s. 8.)

#### **§ 18B-1006.1. Additional requirement for certain permittees to recycle beverage containers.**

Holders of on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverages permits shall separate, store, and provide for the collection for recycling of all recyclable beverage containers of all beverages sold at retail on the premises. A permittee has satisfied the requirements of this section if it implements a recycling program that meets the minimum standards of the model recycling program developed

by the Commission pursuant to G.S. 130A-309.14(m). Failure to comply with the requirements of this section shall not be grounds for revocation of a permit. A conviction for violation of this section shall not constitute an alcoholic beverage offense within the meaning of G.S. 18B-900(a)(4). (2005-348, s. 1; 2007-402, s. 2(a); 2008-187, s. 35.5.)

**§ 18B-1007. Additional requirements for mixed beverages permittees.**

(a) Purchases. – A mixed beverages permittee may purchase spirituous liquor for resale as mixed beverages and a guest room cabinet permittee may purchase spirituous liquor for resale from a guest room cabinet only at an ABC store designated by a local board and only with a purchase-transportation permit issued by that local board under G.S. 18B-403 and 18B-404.

(b) Handling Bottles. – It shall be unlawful for a mixed beverages permittee or the permittee's agent or employee to do any of the following:

- (1) Store any other spirituous liquor with liquor possessed for resale in mixed beverages or from a guest room cabinet.
- (2) Refill any spirituous liquor container having a mixed beverages tax stamp with any other alcoholic beverage, or add to the contents of such a container any other alcoholic beverage.
- (3) Transfer from one container to another a mixed beverages tax stamp.
- (4) Possess any container of spirituous liquor not bearing a mixed beverages tax stamp, except for containers being brought onto the premises by the host of a private function under a special occasion permit.

(c) Price List. – Each mixed beverages permittee shall have available for its customers the printed prices of the most common or popular mixed beverages offered for sale by the permittee. Violation of this subsection shall not be a criminal offense, but shall be punishable under G.S. 18B-104.

(d) When a temporary mixed beverages permit has been issued to a new permittee for the continuation of a business at the same location, the permittee going out of business may sell existing mixed beverages inventory to the new permittee, and the Commission may request that the local ABC board restamp the inventory with the mixed beverages tax stamp assigned by the local board to the new mixed beverages permittee. (1981, c. 412, s. 2; c. 746, s. 2; 1981 (Reg. Sess., 1982), c. 1262, s. 20; 1989, c. 800, s. 15; 1991, c. 565, ss. 6, 7; 1991 (Reg. Sess., 1992), c. 920, s. 8; 1995, c. 466, s. 13.)

**§ 18B-1008. Rules concerning retail permits.**

The Commission is authorized to use broad discretion in further defining the kinds of places eligible for permits under this Article. The rules may state the kind and amount of food that shall be sold to qualify in each category, the relationship between food sales and other receipts, the size of the establishment required for each category, the kinds of facilities needed to qualify, the kinds of activities at which alcoholic beverages may not be sold, and any other matters which are necessary to determine which businesses are bona fide establishments of the kinds listed in G.S. 18B-1000. Rules concerning private clubs may also include requirements that the club have a membership committee to review all applications for membership, that the club charge membership dues substantially greater than what would be paid by a one-time or casual user, that the club restrict use by nonmembers, and that the club provide facilities or activities other than those directly related to the use of alcoholic beverages. (1981, c. 412, s. 2; 2009-381, s. 1.)

**§ 18B-1009. In-stand sales.**

(a) Nothing in this Chapter shall be construed to prohibit a retail permittee from selling for consumption, malt beverages in the seating areas of stadiums, ballparks, and other similar public places with a seating capacity of 3,000 or more during professional sporting events, provided that:

- (1) The seating areas are designated as part of the retail permittee's licensed premises;
- (2) The retail permittee has notified the Commission, in writing, of its intent to sell malt beverages in the seating areas at sporting events;
- (3) Service of food and nonalcoholic beverages is available in the seating areas;
- (4) The retail permittee has certified to the Commission that it has trained its employees:
  - a. To identify underage persons and intoxicated persons; and
  - b. To refuse to sell malt beverages to those persons as required by G.S. 18B-305; and

(5) The employees do not verbally shout or hawk the sale of malt beverages.

(b) The North Carolina Alcoholic Beverage Control Commission shall adopt rules for the suspension of alcohol sales in the latter portion of professional sporting events in order to protect public safety at these events. (1997-167, s. 1; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2013-83, ss. 1, 2.)

**§§ 18B-1010 through 18B-1099.** Reserved for future codification purposes.